

JUDGE THOMAS O. RICE

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

JAMES LEIGHTY,

Plaintiffs,

vs.

SPOKANE COUNTY, a municipal
corporation; SHERIFF JOHN
NOWELS, an individual; and
SPOKANE COUNTY
SHERIFF'S OFFICE, a subdivision
of a
municipal corporation,

Defendants.

No. 2:24-cv-00165-TOR


DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT FOR
DAMAGES AND JURY DEMAND

In answer to the Plaintiff's Complaint for Damages, the Defendants Admit,
deny, and allege as follows:

I. NATURE OF THE CASE

1.1. Defendants deny.

DEFENDANTS' ANSWER TO PLAINTIFF'S
COMPLAINT FOR DAMAGES AND JURY DEMAND- page 1

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1 1.2. Defendants Admit. that it maintains a Facebook page for posting
2 information and updates about Sheriff's Office news, incidents, events and services.
3 Defendants deny any further allegations set forth in this paragraph.

4 1.3. Defendants Admit. that Mr. Leighty wrote comments in response to
5 Official Facebook posts. Defendants deny any further allegations set forth in this
6 paragraph.

7 1.4. Defendants Admit. that it does not provide notice of hiding comments.
8 Defendants deny the remainder of the paragraph.

9 1.5. No answer is required to this paragraph.

10 **II. PARTIES**

11 2.1. Defendants are without sufficient information to Admit. or deny and
12 therefore denies the same.

13 2.2. Defendants Admit. that Sheriff John Nowles is the duly elected Sheriff
14 of Spokane County. He was the Sheriff during the time set forth in Plaintiff's
15 Complaint. The remainder of this paragraph calls for a legal conclusion and no
16 answer is required.

17 2.3. Defendants Admit. that Spokane County is a municipal corporation.
18 The remainder of this paragraph calls for a legal conclusion and no answer is
19 required.

20 **III. JURISDICTION AND VENUE**

21 3.1. Defendants Admit.

22 3.2. Defendants Admit.

23 **IV. FACTUAL ALLEGATIONS**

24 4.1. Defendants are without sufficient information to Admit. or deny and
25 therefore deny the same.

1 4.2 Defendants are without sufficient information to Admit. or deny and
2 therefore deny the same.

3 4.3. Admit. to the extent that the Facebook Homepage speaks for itself.

4 4.4. Defendants Admit. that Nowles has authorized employees to manage the
5 Facebook page. The remainder of the paragraph calls for a legal conclusion
6 and no answer is required. Defendants deny that any person other than the
7 Sheriff is a final policymaker for Spokane County.
8

9 4.5. The document speaks for itself, and no answer is required. To the extent
10 that Plaintiff has accurately summarized the disclaimer, Defendants Admit.
11 the same.

12 4.6. The document speaks for itself, and no answer is required. To the extent
13 that Plaintiff has accurately summarized the disclaimer, Defendants Admit.
14 the same.
15

16 4.7. Admit.

17 4.8. Admit. that any third party can follow the SCSO Facebook page. To the
18 extent Plaintiff asserts there is a unique compilation, Defendants are without
19 sufficient information to Admit. or deny and therefore denies the same.

20 4.9. Admit.

21 4.10. Admit.

22 4.11. This paragraph calls for a legal conclusion and no answer is required.

23 4.12. Defendants are without sufficient information to Admit. or deny and
24 therefore denies the same. Defendants Admit. that Plaintiff purports to
25 advocate in matters related to law enforcement.
26

27 4.13. Defendants are without sufficient information to Admit. or deny and
28 therefore denies the same.
29

1 4.14. Defendants Admit. that Plaintiff comments on the SCSO Facebook
2 page. SCSO denies censoring many of Plaintiff's comments and affirmatively
3 asserts that it applied its terms of use to Plaintiff's posts.

4 4.15. Admit.

5 4.16 Admit.

6 4.17. Deny to the extent that it is a FB policy, not SCSO's policy. "[hiding](#)
7 [comments from your Page.](#)"

8 <https://www.facebook.com/help/841213946569182>

9
10 4.18. Defendants are without sufficient information to Admit. or deny and
11 therefore denies the same as Plaintiff asks for a response from a user's
12 statement of mind.

13 4.19. Admit. to the extent that SCSO followed its terms of use as to Plaintiff's
14 improperly stated summary.

15 4.20. Deny. Plaintiff had access to the posting policy which sets forth terms
16 of use.

17 4.21. Admit but only to the extent that SCSO posted a press release from the
18 Prosecuting Attorney's office that no charges would be filed against a
19 Spokane County Detention Services Corrections Officer, not a SCSO Deputy.
20 Detention services has been overseen by the Board of County Commissioners
21 since 2013, not the SCSO. Defendants are without sufficient information to
22 admit or deny the remainder of the paragraph and therefore deny the same.

23 4.22. Deny. Plaintiff had access to the posting policy which sets forth terms
24 of use.

25 4.23. Admit. to the extent that the email would speak for itself.
26
27
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1 4.24. Admit. to a post being made on October 6, 2021. Plaintiff released the
2 Deputy's name and the victim's name making judgements as stated facts that
3 had not yet been determined and made comments purporting to claim the
4 deputy was guilty before any investigation had been completed and was
5 ongoing. The Prosecuting Attorney's office announced on March 30, 2022,
6 that the Deputy's actions were justified. Defendants are without sufficient
7 information to admit or deny any further allegations and therefore denies the
8 same.
9

10 4.25. Deny. Plaintiff had access to the posting policy which sets forth terms
11 of use.

12 4.26. Admit. that a post was made on October 19, 2023. Deny as to the
13 remainder and affirmatively assert that the "prompt" arrest was made because
14 it was regarding a protection order with assault DV and a warrant for a
15 violation of a protection order DV. The arrest was therefore mandated by
16 RCW. However, Plaintiff ignored, or was unaware of the mandatory arrest
17 requirements and instead noted the deputy by name even though the incident
18 was being independently investigated by the Spokane Police Department. At
19 the time of Plaintiff's post, probable cause had not been established by the
20 SPD investigators, nor had the deputy been charged or convicted. As in
21 keeping with the general law about releasing suspect information SCSO does
22 not post, nor would it allow to be posted incorrect "facts" about suspects
23 unless they have been formally charged. This deputy was not charged.
24

25 4.27. Deny. Plaintiff had access to the posting policy which sets forth terms
26 of use.
27
28
29

1 4.28. Admit. that a post was made on October 26, 2023. Deny as to the
2 remainder and affirmatively assert that an independent investigation was
3 ongoing by Spokane Police Department. There had been no findings and no
4 charges at the time Plaintiff's post was made in which he named the deputy
5 by name. The deputy was never charged or convicted. As in keeping with
6 the general law about releasing suspect information SCSO does not post, nor
7 would it allow to be posted incorrect "facts" about suspects unless they have
8 been formally charged. This deputy, named by Plaintiff in his post, was not
9 charged.
10

11 4.29. Deny. Plaintiff had access to the posting policy which sets forth terms
12 of use.

13 4.30. Admit. that a post was made on February 21, 2024. Defendants are
14 without sufficient information to admit or deny and therefore denies the same.

15 4.31. Deny. Plaintiff had access to the posting policy which sets forth terms
16 of use.

17 4.32. Admit that a post was made on March 20, 2024. This was a shooting of
18 public concern, and an arrest on a burglary, kidnapping 2nd degree, assault 2nd
19 and violation of a protection order with assault (DV). Again, the arrest was
20 mandatory because of the DV per Washington Statute where probable cause
21 exists. Plaintiff again noted the deputy by name where the investigation was
22 ongoing by Spokane Police Department and the Deputy was not charged. As
23 in keeping with the general law about releasing suspect information SCSO
24 does not post, nor would it allow to be posted incorrect "facts" about suspects
25 unless they have been formally charged.
26
27
28
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1 4.33. Deny. Plaintiff had access to the posting policy which sets forth terms
2 of use.

3 4.34. Admit that a post was made on May 8, 2024. Defendants are without
4 sufficient information to admit or deny and therefore denies the same.

5 4.35. Deny. Plaintiff had access to the posting policy which sets forth terms
6 of use.

7
8 4.36. This paragraph calls for a legal conclusion and therefore no answer is
9 required. To the extent that any factual allegations are set forth, Defendants
10 deny the same and affirmatively assert that if “pro police” comments violated
11 the posting policies they would also be hidden.

12 4.37. Deny. Plaintiff had access to the posting policy which sets forth terms
13 of use.

14 4.38. This paragraph calls for a legal conclusion and therefore no answer is
15 required. To the extent that any factual allegations are set forth, Defendants
16 deny the same.

17 4.39. This paragraph calls for a legal conclusion and therefore no answer is
18 required. To the extent that any factual allegations are set forth, Defendants
19 deny the same.

20 4.40. Defendants are without sufficient information to admit or deny and
21 therefore deny the same.
22

23
24 **V. INJUNCTIVE CLAIMS**

25 5.1. Defendants admit or deny as set forth above.

26 5.2. This paragraph calls for a legal conclusion and therefore no answer is
27 required. To the extent that any factual allegations are set forth, Defendants
28 deny the same.
29

1 5.3. This paragraph calls for a legal conclusion and therefore no answer is
2 required. To the extent any factual allegations are set forth, Deny. Plaintiff
3 had access to the posting policy which sets forth terms of use.
4

5 **VI. DAMAGES CLAIMS**

6 6.1. Admit or deny as set forth above.

7 6.2. This paragraph calls for a legal conclusion and therefore no answer is
8 required. Defendants admit that jurisdiction is appropriate and further
9 affirmatively assert that the hiding of comments was not based on viewpoint
10 but were based on violation of the posting policies, use standards or filters.
11 Plaintiff further had access to the posting policy which sets forth the terms of
12 use.

13 6.3. This paragraph calls for a legal conclusion and therefore no answer is
14 required. Defendants admit that the cause of action is brought per Plaintiff's
15 complaint under 42 U.S.C. 1983 and the Fourteenth Amendment.
16

17 **VII. AFFIRMATIVE DEFENSES**

- 18 1. That all actions of the Defendants herein alleged as negligence, manifest a
19 reasonable exercise of judgment and discretion by authorized public
20 officials made in the exercise of governmental authority entrusted to them
21 by law and are neither tortious nor actionable.
22
23 2. That the Plaintiff has failed to state a claim upon which relief may be
24 granted.
25
26 3. That if Plaintiff sustained any injury or damage, the same was provoked
27 by the conduct of Plaintiff.
28
29

1 4. That Defendant at all times acted in good faith in the performance of its
2 duties and is therefore immune from suit for the matters charged in
3 Plaintiff's Complaint.

4 5. That if Plaintiff suffered any damages, recovery therefore is barred by
5 Plaintiff's failure to mitigate said damages.

6 6. That the claims alleged under 42 U.S.C. § 1983 against the government
7 employees are barred by the doctrine of qualified immunity. (See: *See*
8 *Saucier v. Katz*, 533 U.S. 194 (2001)).
9

10 **VIII. ADDITIONAL AFFIRMATIVE DEFENSES**

11 Because Plaintiff's allegations and causes of action are stated in vague and
12 conclusory terms, Defendant cannot fully anticipate each affirmative defense that
13 may be applicable to this action. Accordingly, Defendant reserves the right to
14 plead additional affirmative defenses, if and to the extent that such affirmative
15 defenses are appropriate and available in this case.
16

17 **IX. REQUEST FOR RELIEF**

18 WHEREFORE, Defendant prays for relief as follows:

- 19 1. That the Complaint be dismissed, with prejudice in its entirety.
20 2. That Plaintiff take nothing by reason of this Complaint and that judgment
21 be entered against Plaintiff and in favor of Defendant.
22 3. That Defendant be awarded its attorneys' fees and costs incurred in
23 defending this action.
24 4. That Defendant be granted such other and further relief as the Court may
25 deem just and proper.
26

27 **X. JURY DEMAND**

28 Defendants hereby demand that this matter be tried to a jury.
29

1 DATED this 16th day of September, 2024.

2
3 EVANS, CRAVEN & LACKIE, P.S.

4
5 *S/ Heather C. Yakely*

6 HEATHER C. YAKELY, WSBA #28848

7 Attorney for Defendants

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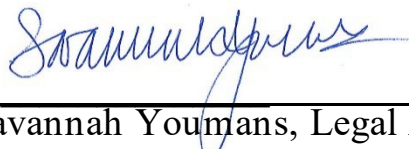
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CERTIFICATE OF SERVICE

I hereby certify that on September 16th, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Braden Pace
Mika K. Rothman
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Savannah Youmans, Legal Assistant